



MEMO ENDORSED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
NECA-IBEW HEALTH & WELFARE :
FUND, Individually and on Behalf of All :
Others Similarly Situated, :

Plaintiff,

v.

GOLDMAN, SACHS & CO., *et al.*,

Defendants.
----- X

Case No. 08-CV-10783 (MGC)

**DEFENDANTS' NOTICE OF
MOTION TO DISMISS THE
SECOND AMENDED COMPLAINT**

(ORAL ARGUMENT REQUESTED)

PLEASE TAKE NOTICE that upon the accompanying memorandum of law, dated December 11, 2009, and the accompanying Declaration of Harsh N. Trivedi, dated December 11, 2009, with attached exhibits, defendants Goldman, Sachs & Co., Goldman Sachs Mortgage Company, GS Mortgage Securities Corp., Kevin Gasvoda, Michelle Gill and Daniel L. Sparks, (collectively, "Defendants") will move this Court, before the Honorable Miriam Goldman Cedarbaum, on January 21, 2010 at 9:30 a.m., or at such other time as the Court may order, in Courtroom 14A of the United States Courthouse at 500 Pearl Street, New York, New York 10007, for an Order dismissing the Second Amended Complaint in this action, with prejudice, pursuant to Federal Rules of Civil Procedure 12(b)(1), for lack of standing, and 12(b)(6), for failure to state a claim and as barred by the statute of limitations.

*Motion granted with leave to serve and file
a third amended complaint by March 31, 2010.
For oral opinion, see record of proceedings.*

So ordered.

January 28, 2010

5/ United States District Judge